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United States Department of Agriculture

AGRICULTURAL MARKETING SERVICE

SERVICE AND REGULATORY ANNOUNCEMENTS NO. 93 23 1942

RULES AND REGULATIONS OF THE SECRETARY OF AGRICULTURE GOVERNING THE INSPECTION AND CERTIFICATION OF FRUITS, VEGETABLES, AND OTHER PRODUCTS

Issued under an act of Congress approved July 1, 1941, Public No. 144, 77th Congress. Also under sec. 12, 50 Stat. 730, 7 U. S. C., Sup., 499n.

(Title 7, Ch. 1, Pt. 51 of the Code of Federal Regulations)

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DEFINITIONS

51.1 Meaning of words.—Words used in these regulations in the singular form shall be deemed to import the plural and vice versa, as the case may demand.

51.2 Terms defined.—For the purpose of these regulations, unless the context otherwise require, the following terms shall be construed, respectively, to mean:

(a) *Act.*—(1) The "Market Inspection of Farm Products" item of the Agricultural Appropriation Act (55 Stat. 408; 7 U. S. C., Sup. 414); and (2) Sec.

¹ This announcement was originally issued as Service and Regulatory Announcements No. 93 of the Bureau of Agricultural Economics.

14 of the Perishable Agricultural Commodities Act, 1930, as amended (sec. 12, 50 Stat. 730; 7 U. S. C. Sup. 499n).

(b) *Secretary*.—Secretary or Acting Secretary of Agriculture of the United States.

(c) *Chief of Service*.—The Chief or Acting Chief of the Agricultural Marketing Service.

(d) *Person*.—Individual, partnership, corporation, or association.

(e) *Inspector*.—An employee of the Department of Agriculture or other person authorized by the Secretary to investigate and certify to shippers and other interested parties the quality and condition of products under the act.

(f) *Products*.—Fruits, vegetables, nuts, and other perishable farm products not covered by other regulations under the act.

(g) *Office of inspection*.—The office of an inspector of products covered by the regulations in this part.

(h) *Inspection certificate*.—A certificate of the quality or condition of products issued by an inspector under the act.

(i) *Regulations*.—Rules and regulations of the Secretary under the act.

ADMINISTRATION

51.3 Authority.—The Chief of Service is charged with the administration of the provisions of the act and the regulations in this part, and is authorized to issue such instructions as he may deem proper and necessary.

WHERE SERVICE IS OFFERED

51.4 Inspection, where made.—Products may be inspected at points indicated in paragraphs (a), (b), and (c) of this section whenever an official inspector is available.

(a) *Shipping points*.—Inspection is available in all States with which the Agricultural Marketing Service has entered into cooperative agreements providing for this work.

(b) *Designated markets*.—The following are designated as important central markets at which products may be inspected under the act:

Atlanta, Ga.; Baltimore, Md.; Boston, Mass.; Buffalo, N. Y.; Chicago, Ill.; Cincinnati, Ohio; Cleveland, Ohio; Columbus, Ohio; Denver, Colo.; Detroit, Mich.; Fort Worth, Tex.; Hartford, Conn.; Houston, Tex.; Indianapolis, Ind.; Jacksonville, Fla.; Kansas City, Mo.; Los Angeles, Calif.; Memphis, Tenn.; Milwaukee, Wis.; Minneapolis, Minn.; New Haven, Conn.; New Orleans, La.; New York, N. Y.; Norfolk, Va.; Oklahoma City, Okla.; Philadelphia, Pa.; Pittsburgh, Pa.; Portland, Oreg.; Rochester, N. Y.; St. Louis, Mo.; Salt Lake City, Utah; San Francisco, Calif.; Seattle, Wash.; Washington, D. C.

(c) *Other points*.—Inspection may be made at other points approved by the Chief of Service, or at any point near a designated market under conditions provided in section 51.40 to the extent permitted by the time of the nearest inspector.

INSPECTION SERVICE

51.5 Kind of service.—Inspection of products may be made according to quality or condition.

51.6 Who may obtain service.—An application for inspection may be made by any financially interested person, his authorized agent, and Federal, State, county, and municipal governments, and common carriers.

51.7 How to make application.—Application for inspection may be filed in the office of the inspection or with an inspector. It may be made in writing, orally, by telegraph, or telephone. If made orally the inspector may require that it be confirmed by applicant in writing or by telegraph, giving the information required by section 51.8. Application may be made for one or more lots, or it may be a blanket application for inspection of all designated lots of a given commodity within a given period, or for all designated lots loaded or received at a given point.

51.8 Form of application.—Each application for inspection shall state (a) the name and post-office address of the applicant and of the person, if any, making the application in his behalf; (b) the name and post-office address of the shipper; (c) the kind and quantity of the products involved; (d) the finan-

cial interest of the applicant (except the State) therein; (e) the identification of the products by (1) grade, brand, or other marks, if possible, (2) car initials, car number, and name of carrier or number of truck or name of boat, if possible; and (3) name and location of store, warehouse, or other place where the products are located; (f) the particular quality or condition concerning which inspection is requested, to which may be added the particular time and place at which it is desired that the inspection be made; (g) the name and address of the receiver when the lot is to be inspected in a receiving market; (h) the name of the shipping point and of the destination when known; and (i) such other information as may be necessary for identification of the product or as may be required by the inspector or the Chief of Service.

51.9 Filing of application.—An application shall be deemed filed when delivered to the proper office of inspection. A record showing the date and time of filing shall be made in such office.

51.10 When application may be rejected.—An application may be rejected by the inspector in charge of the office of inspection in which it is filed, for non-compliance with the act or any applicable regulation thereunder, and such inspector shall immediately notify the applicant of the reasons for such rejection.

51.11 When application may be withdrawn.—An application may be withdrawn by the applicant at any time before the work is performed, upon payment of any expenses incurred by the Agricultural Marketing Service in connection therewith.

51.12 Authority of agent.—Proof of the authority of any person applying for inspection in behalf of another may be required in the discretion of the inspector.

51.13 Accessibility of products.—The applicant shall cause the products for which inspection is requested to be made accessible for sampling or inspection and to be so placed as to disclose their quality or condition. Samples of the products drawn for examination shall be inspected only under such conditions as will permit a true and correct determination to be made of their quality or condition.

51.14 Basis of service.—Inspection and certification for quality or condition, unless the applicant shall request otherwise, shall be based upon the official and tentative standards of the United States Department of Agriculture or any State or foreign country, or shall be by description where official standards are lacking.

51.15 Order of Inspection.—Inspection shall be made in the order in which applications are received, except that precedence shall always be given (a) to the inspection of lots involved in Perishable Agricultural Commodities Act complaints and (b) to appeal inspections. Precedence may also be given to applications made by a branch of the Federal Government.

51.16 Financial interest of inspector.—No inspector shall inspect any products in which he is directly or indirectly financially interested.

51.17 Postponing inspection.—If the inspector has reason to believe that because of latent defects due to climatic or other conditions he is unable to determine the true quality or condition of the product, he shall postpone examination of the product for such period as may, in his judgment, be reasonably necessary to enable him to determine its true quality or condition.

51.18 Official sampling.—Samples may be officially drawn by any duly authorized inspector and delivered or shipped for analysis and certification to the nearest designated market or to such designated market as shall be directed by the Agricultural Marketing Service. The container in which such samples are delivered or shipped shall contain a statement signed by the inspector who drew the samples showing the time and place of the sampling and the brands or other identifying marks of containers from which the samples were drawn. The certificate based on such samples shall show the time and place of drawing the sample and the name of the inspector by whom it was drawn.

51.19 Certificate, form.—Certificates shall be issued on forms approved by the Chief of Service: *Provided*, That when application for inspection is made by any branch of the Federal Government or by a public institution or by anyone, for the purpose of determining whether food products for use by such applicant comply with contract specifications therefor, a formal certificate need not be issued, but the fact of such compliance or noncompliance may be indicated by appropriate stamp or mark on such products or the containers thereof, or otherwise, in the discretion of the inspector: *Provided further*, That memoranda

of inspections showing the grades of individual growers' lots offered for manufacturing or other purposes may be issued in lieu of certificates on forms approved by the Chief of Service.

51.20 Certificates, issuance.—The inspector shall sign and issue a separate certificate for each lot inspected by him, except that when an application covers a number of less-than-carload lots a single certificate may be issued to cover all such lots. Each kind of fruit or vegetable shall constitute a separate lot, but different varieties of the same kind of fruit or vegetable, except peanuts, pecans, and other nuts, shall not be so considered.

51.21 Certificates, disposition.—The original certificate and not to exceed four copies, if requested prior to issuance, shall be immediately delivered or mailed to the applicant or a person designated by him. One copy shall be filed in the office of the inspector, or of the cooperating agency, and one copy forwarded to the Chief of Service, except that memoranda of inspections issued as provided in section 51.19 need not be so forwarded. Copies of certificates shall be kept on file until other disposition is ordered by the Chief of Service. In the case of any product with respect to which a marketing agreement and order are in effect under the jurisdiction of the Surplus Marketing Administration copies of certificates covering inspection of such products shall be delivered to the control committee or supervisory body or bodies established thereunder upon the direction of the Secretary or his authorized agent, subject to such terms and conditions as the Secretary may prescribe, for the purpose of effectuating the purposes of said marketing agreement and order. Copies will be furnished to other financially interested parties as outlined in section 51.41.

51.22 Advance information.—Upon request of an applicant, all or any part of the contents of the certificates may be telegraphed or telephoned to him, or to any person designated by him, at his expense.

APPEAL INSPECTION

51.23 When appeal may be taken.—An application for appeal inspection may be made whenever any financially interested person is dissatisfied with the determination stated in the original certificates.

51.24 How to obtain.—Appeal inspection may be obtained by the applicant or other person financially interested in the product by filing a request (a) in the inspection office nearest the point where the product is located, or (b) with the inspector who made the original inspection, or (c) in any regional supervisory inspection office, or (d) with the Chief of Service. The application for appeal shall state the reasons therefor and should be accompanied by a copy of any previous inspection certificate or inspection report, or any other information which the applicant shall have received regarding the quality or condition of the product at the time of the original inspection. Such application may be made orally or in writing, or by telegraph or telephone. If made orally the person receiving the application may require that it be confirmed in writing.

51.25 Record of filing time.—A record showing the date and time of filing such application shall be immediately made by the receiver thereof.

51.26 When appeal may be refused.—If it shall appear that the reasons stated in an application for appeal inspection are frivolous or unsubstantial, or that the quality or condition of the products has undergone a material change since the original inspection, or that the products cannot be made accessible for a thorough examination of all parts of the lot, or the identity has been lost, or the regulations in this part have not been complied with, the application may be denied.

51.27 When appeal may be withdrawn.—Any application for appeal inspection may be withdrawn by the applicant at any time before the inspection has been made upon payment of any expenses incurred by the Agricultural Marketing Service in connection therewith.

51.28 Order in which made.—Appeal inspections shall be made as far as practicable at the time requested by applicant and in the order in which applications are received. They shall take precedence over all other pending applications, except inspections covering lots involved in Perishable Agricultural Commodities Act cases.

51.29 Who shall make appeal inspections.—Appeal inspections shall be made by inspectors specially designated therefor by the Chief of Service, and such inspections shall be conducted jointly by two inspectors when practicable. No appeal inspector shall pass upon an appeal involving the correctness of a certificate issued by him.

51.30 Appeal findings.—The inspector or inspectors making an appeal inspection shall sign and issue an appeal inspection certificate which shall supersede and refer specifically to the original inspection certificate from which the appeal was taken, and state the quality or condition of the product, as determined by the appeal inspection. In all other respects the provisions of sections 51.5–51.22 shall apply to appeal inspection certificates, except that if the applicant for appeal inspection be not the original applicant a copy of the appeal inspection certificate shall be mailed to the original applicant.

51.31 Superseded certificates.—When an inspection certificate shall have been superseded by an appeal inspection certificate such inspection certificate shall become null and void and shall not thereafter represent the quality or condition of the product described therein. If the original and all copies of the superseded certificate are not delivered to the person receiving the application for appeal inspection, the officer issuing the superseding certificate shall forward notice of such issuance and of the cancellation of the original certificate to such persons as he considers necessary to prevent fraudulent use of the canceled certificate.

51.32 Reinspections other than appeals.—Inspections requested to determine factors of quality or condition which may have undergone material change since the original inspection, shall not be considered appeal inspections within the meaning of the regulations in this part. A second inspection requested for the purpose of securing an up-to-date certificate, but where the applicant does not question the correctness of the original certificate covering the lot in question, shall not be considered an appeal inspection.

LICENSED INSPECTORS

51.33 Who may be licensed.—Persons showing proper qualifications may be licensed by the Secretary as inspectors of products which may be inspected under the act. All such licenses shall be countersigned by the supervising inspector under whose direction the licensee is to make inspections, or by such other official as may be designated by the Chief of Service.

51.34 Suspension of licenses.—Any license may be suspended, pending final action by the Secretary, by the Chief of Service, or any official by whom it may be countersigned whenever such official shall deem such action to be for the good of the service. Within 7 days after any such suspension the licensee may file an appeal in writing to the Secretary, supported by any argument or evidence that he may wish to offer.

FEES AND EXPENSES

51.35 Amount of fees, rates, and expenses.—For each lot of products inspected a fee and expenses determined in accordance with sections 51.36–51.41, and section 51.44 or such supplemental schedules as may be promulgated from time to time by the Secretary, shall be paid by the applicant.

51.36 Basis for charges.—The fee for each lot of products inspected by a salaried inspector acting exclusively for the Department of Agriculture, except for peanuts, pecans, and other nuts, and except under the provisions of section 51.19, shall be on the following basis: (a) For an inspection covering quality and condition, \$4 when the quantity involved is more than $\frac{1}{2}$ a carload of the customary size for such products in the area from which shipped but not more than a full carload, and \$2.50 when the quantity involved is not more than $\frac{1}{2}$ of such a carload; (b) for a condition inspection, \$2.50 when the quantity is not more than a carload of customary size; but the maximum fee for any carload not exceeding the customary size shall be \$7.50. For each lot of peanuts, pecans, or other nuts inspected, except under section 51.19 the fee shall be \$5 when the quantity involved is not more than a full carload, provided that different grades and varieties of peanuts shall be considered separate lots. When the lot involved is in excess of a carload or is not contained in cars, the quantity shall be calculated in terms of carloads and fractions thereof of the customary size for such carloads and the rates aforesaid applied, except that when inspections are made on which formal certificates are not issued, as provided in section 51.19, or when the products inspected cannot readily be calculated in terms of carlots, or when the services rendered are such that a charge on the carload basis would be inadequate or inequitable, charges for inspection may be based on the time consumed by the inspector in connection with such inspections, computed at the rate of not to exceed \$2 per hour, or the charges may be based

upon the number of pounds or number of containers in the lot inspected, provided such charges are in substantial conformity with the hourly or carload rate.

51.37 Fees for inspections by licensee.—Fees for inspections made by a licensed inspector acting exclusively for the Agricultural Marketing Service shall be those provided in the terms of his contract of employment.

51.38 Fees under cooperative agreement.—Fees for inspections made under cooperative agreements shall be those provided for by such agreements.

51.39 Fees for appeal inspections.—Fees for appeal inspections of all products shall be double those for original inspections, except that when it is found that there was a material error in the determination based upon the original inspection no fee will be charged and except that appeal inspection for Government agencies shall be at actual cost, but the maximum fee for the reinspection of a single car shall not exceed \$15.

51.40 Traveling, and other expenses.—Such further charges may be made for traveling expenses and other items paid or incurred by the Agricultural Marketing Service in connection with an inspection made at a place where no inspector is located, or appeal inspection where the services of a second inspector are required, as will reimburse the Agricultural Marketing Service. These charges shall be included with the fee for inspection on the bill furnished the applicant.

51.41 Fees for copies of inspection certificates.—For not to exceed three copies of a certificate furnished to any person financially interested in the products involved, except as provided in section 51.19, the fee shall be \$1.

51.42 How fees shall be paid.—Fees shall be paid by the applicant in accordance with the directions on the fee bill furnished him by the inspector, and in advance if required by the inspector.

51.43 Disposition of fees.—The fees covered by sections 51.36–51.38 shall be disposed of as follows:

(a) Fees for inspections made by salaried inspectors acting exclusively for the Agricultural Marketing Service shall be promptly remitted to the Service.

(b) Fees for inspections made by a licensed inspector acting exclusively for the Agricultural Marketing Service, less the percentage thereof which he is allowed by the terms of his contract of employment as compensation for his services, shall be remitted to the Agricultural Marketing Service.

(c) Fees for inspections made by an inspector acting under a cooperative agreement with a State or other organization shall be disposed of in accordance with the terms of such agreement. Such portion of the fees collected under a cooperative agreement with a State as may be due the United States shall be remitted to the Agricultural Marketing Service.

Fees covered by sections 51.39–51.41 shall be remitted to the Agricultural Marketing Service.

51.44 Refunds.—Upon filing a declaration of his intention to avail himself of this privilege any applicant who shall have paid for 500 or more carload inspections of fruits and vegetables for quality and condition in any one market within the period of one year immediately following such filing shall receive a refund from the Department at the rate of \$1.50 per carload for the first 500 cars. For inspections in excess of 500 cars the fee shall be \$2.50 per carload for the remainder of the year unless the total number exceeds 1,000, in which event the applicant shall be entitled to a further refund at the rate of \$0.50 per carload for the entire number so inspected. Any applicant who shall have paid for 1,000 or more carload inspections of fruits and vegetables for condition in any one market within the period of one year immediately following such filing shall receive a refund from the Department at the rate of \$0.50 per carload for the first 1,000 cars. For inspections in excess of 1,000 cars the fee shall be \$2 per car during the remainder of the year. That if at any time before the first 1,000 cars are inspected for such applicant the Agricultural Marketing Service is unable during a continuous period of 30 days to furnish inspections when requested, said refund of \$1.50 per car shall be made on such cars as have been inspected up to that time on which a refund has not been made: *And provided further*, That in computing the number of carlot fees for the purposes of this section the total of fees paid by an applicant for refund on any basis of charges other than the carlot as provided in section 51.36 shall be reduced to a carlot basis by dividing by 4.

MISCELLANEOUS

51.45 Fraud or misrepresentation.—Any willful misrepresentation or any deceptive or fraudulent practice made or committed by any person in connection with the making or filing of an application, the making the product accessible for sampling or inspection as provided in section 51.13, the use of an inspection, reinspection or appeal inspection certificate, or any willful violation of the regulations in this part or of the supplementary rules and instructions issued by the Chief of Service, may be deemed sufficient cause for debarring from any further benefits of the act, the person found guilty thereof, after opportunity for hearing has been accorded him, and, pending investigation and hearing, the Chief of Service may, without hearing, direct that such person shall be denied the benefits of the act.

51.46 Interfering with the inspector.—Any further benefits of the act may be denied to an applicant who either personally or through an agent or representative interferes with or obstructs, by intimidation, threats, assault, or any other improper means, an inspector in the performance of his duties.

51.47 Publication.—Publication under the act and these regulations shall be made in Service and Regulatory Announcements of the Agricultural Marketing Service and such other mediums as the Chief of Service may from time to time designate for the purpose.

51.48 Political activity.—All inspectors authorized, either by appointment or license from the Secretary of Agriculture, to issue inspection certificates under the act and these regulations are forbidden, during the period of their appointment or license, to take an active part in political management or in political campaigns. Political activity in city, county, State, or national elections, whether primary or regular, or in behalf of any party or candidate, or any measure to be voted upon, is prohibited. This applies to all appointees, including temporary and cooperative employees, and employees on leave of absence with or without pay. Willful violation of this section will constitute grounds for dismissal in the case of appointees, and revocation of licenses in the case of licensees.

51.49 Identification.—All inspectors shall have in their possession at all times Agricultural Marketing Service identification cards, and shall identify themselves by such cards on request.

Done at Washington, D. C., this 27th day of December 1941. Witness my hand and the seal of the Department of Agriculture.



Claude R. Wickard
Secretary of Agriculture.

